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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/916,904

07/27/2001

George Bernhart

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26352

7590

09/22/2005

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EXAMINER

LE, KAREN L

ART UNIT

PAPER NUMBER

2642

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,904

Applicant(s)

BERNHART, GEORGE

Examiner

Karen L. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Applicant's amendment filed on June 23, 2005 has been entered. Claims 1, 3, 5, 7, 10 and 11 have been amended. No claims have been cancelled. No claims have been added. Claims 1- 11 are still pending in this application, with claims 1, 3, 5 and 7 being independent.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Furuno (U.S. 5,724,667).

Regarding claims 1 and 3, Furuno teaches a method of deploying and retracting an ear piece (fig. 2, item 27) attached to a mobile phone (fig. 2, item 10), the method comprising the steps of:

deploying the ear piece via a friction wheel (Fig. 2, item 30 and 34);

producing a bias signal upon detection of the ear piece being deployed;

coupling the bias signal to a bias signal port of the mobile phone; determining if an incoming call exist upon receiving the bias signal at the bias signal port; activating a communications channel if an incoming call exists (abs. Lines 6-12).

Regarding claims 2, 4 and 11, Furuno further teaches the method of deploying and retracting an ear piece attached to a mobile phone as recited in claim 1 further comprising the step of deactivating the communications channel upon retraction of the ear piece (col. 2, lines 33-37).

Regarding claim 5, Furuno further teaches a mobile communications device (Fig. 2, item 10) comprising:

an attachable device having a friction wheel (Fig. 2, item 30 and 34) for deploying and retracting an ear piece (Fig. 2, item 27) and at least one output node, the at least one output node comprising an output node containing a bias signal when the ear piece is deployed, and a mobile phone having at least one signal port, the at least one signal port includes a bias signal port electrically coupled to the at least one output node, the mobile phone activating a communications channel upon receiving an incoming transmission and the bias signal (col. 2, lines 18-37).

Regarding claim 6, Furuno further teaches the mobile communications device as wherein the attachable device further comprises an engagement slot (Fig. 2, item 26).

Regarding claims 7, 8 and 9, Furuno further teaches The mobile communications device (fig. 2, item 10) as recited in claim 6 further comprising:

a support member having an engagement member for coupling with the engagement slot; at least one signal lead for electrically coupling to the at least one output node, the at least one signal lead comprising a signal lead electrically coupled the output node and the bias signal pod; and at least one latching mechanism (Fig. 2, items 26, 29 and 18).

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Regarding claim 10, Furuno further teaches the mobile communications device as recited in claim 5, wherein the attachable device further comprises: a voltage source and a switch (Fig. 2, item 14), and the output node, the switch having a closed state when the ear piece is deployed and an open state when the ear piece is retracted (Col. 2, lines 1-6).

Response to Arguments

5. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen L Le whose telephone number is 703-308-4998. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F Matar can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Karen Le
KLL

September 19, 2005


JACK CHIANG
PRIMARY EXAMINER